IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 162 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AS KHATWANI

Versus

MANAGER

Appearance:

1. Special Civil Application No. 162 of 2004

MR IS SUPEHIA for Petitioner No. 1

MR RR MARSHALL for Respondents

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 13/01/2005

ORAL JUDGEMENT

Rule. Mr.R.R.Marshall waives service of notice of rule on behalf of the respondents. At the joint request of the learned advocates appearing for the

parties, the petition is taken up for final disposal today.

2. In this petition, the petitioner has prayed for setting aside the office note dated 5.12.03 and has further prayed for being permitted to avail the Leave Fare Assistance (LFA for short) by Air for the year 2003. It is the case of the petitioner that the petitioner had undertaken journey from Vadodara to Rewa which is his home town with his family in July 2003. It is also the case of the petitioner that as per his entitlement under the Service Rules, he is entitled to travel to his home town from the place of his posting by air and that the respondents are required to reimburse the expenditure undertaken by him for such a journey. It is not in dispute that the petitioner was placed at the relevant time at Vadodara and that he did undertake the journey with his family as mentioned above to his home town which admittedly is Rewa in the State of M.P. It is submitted that since there is no direct air link between Vadodara and Rewa, the petitioner flew from Vadodara to Delhi and from Delhi to Allahabad and thereafter covered the rest of the distance by surface transport.

3. Learned counsel for the petitioner submits that as per the policy of the respondents, the petitioner would be entitled to reimbursement of the air fare from Vadodara to Delhi and From Delhi to Allahabad. He submits that the petitioner is not claiming the expenditure for the remaining journey from Allahabad to Rewa by surface transport. He submits that since there is no direct air link from Vadodara to Rewa, the petitioner had undertaken the said journey which is the shortest route to his home town. The respondents have filed affidavit in reply and contested the claim. It is pointed out that the distance between Vadodara and Rewa would be 1090 k.m. whereas the journey undertaken by the petitioner was over a total distance of 1853 k.m. It is pointed out that the petitioner is not entitled to take a circuitous route to reach his home town and even if there is no direct air link, the petitioner cannot choose any route to fly and seek reimbursement of such fare.

4. The policy governing the reimbursement of LFA is laid down by the respondents in the circular dated 13th July 1998. The entitlement of the petitioner to undertake a journey by air is not in dispute. However, pointing out from the provisions of the said circular, the counsel for the respondents has submitted that an employee or his family may travel by any route and halt anywhere on the way to or from the home town, however,

the assistance shall be limited to the fare by the shortest route. Pointing out the provisions of the clarification issued by the respondents on 4th March 2002, it is submitted that the LFA encashment by air to home town is not permissible when the journey is undertaken through a longer or circuitous route. On the basis of the said letter, it is also contended that LFA encashment by air between the place of posting and the airport not falling en-route the place of posting and home town of the employee is also not permissible.

5. From the above provisions of the scheme formulated by the respondents, it is clear that the petitioner could not have claimed the LFA by air route from Vadodara to Delhi and from Delhi to Allahabad since that was a circuitous route. Even if it is otherwise shortest route, it is not possible for me to read anything in the rules to permit such a journey to be undertaken for which reimbursement can be claimed. I am unable to accept the contention of the learned counsel for the petitioner that simply because there was no direct air link between Vadodara and Rewa the petitioner could have undertaken the journey through air by any other route even if the same happens to be circuitous route. The entitlement of the petitioner has to be examined within the policy framed by the respondents and since the policy does not permit reimbursement of such a circuitous journey by air, I am unable to accept the request of the petitioner. The fact that some other persons might have been reimbursed such allowance in past cannot be the basis for holding that the rules so permit in favour of the petitioner.

6. In the result, the petition fails and the same is hereby rejected. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)
(vjn)